

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

PHILLIP GIPSON,

Petitioner,

v.

MICHAEL A. SMELOSKY,

Respondent.

NO. C08-2526 TEH

ORDER DENYING MOTION  
FOR CERTIFICATE OF  
APPEALABILITY

The Court is in receipt of Petitioner Phillip Gipson's motion for a certificate of appealability. The motion is DENIED because the Court finds that Petitioner has failed to make a "substantial showing of the denial of a constitutional right" on any of his claims. 28 U.S.C. § 2253(c)(2); *see also Slack v. McDaniel*, 529 U.S. 473, 483-84 (2000) (explaining that an applicant satisfies this standard where he or she shows that reasonable jurists could find the issues debatable or that the issues are "adequate to deserve encouragement to proceed further") (quoting *Barefoot v. Estelle*, 463 U.S. 880, 893 n.4 (1983)). The Clerk shall forward the case file to the court of appeals with this order. *United States v. Asrar*, 116 F.3d 1268, 1270 (9th Cir. 1997).

**IT IS SO ORDERED.**

Dated: 09/03/09



THELTON E. HENDERSON, JUDGE  
UNITED STATES DISTRICT COURT